

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

KAREN FINDLEY,

Plaintiff,

vs.

**MICHAEL J. ASTRUE,
Commissioner of Social Security,**

Defendant.

Case No. 1:08CV6 LMB

MEMORANDUM AND ORDER

This is an action under 42 U.S.C. § 405(g) for judicial review of defendant's final decision denying plaintiff's application for Supplemental Security Income (SSI) Benefits under Title XVI of the Social Security Act. This case has been assigned to the undersigned United States Magistrate pursuant to the Civil Justice Reform Act and is being heard by consent of the parties. See 28 U.S.C. § 636(c). Currently pending is Defendant's Motion to Reverse and Remand With Suggestions in Support. (Document Number 17). Plaintiff has filed a Response to Defendant's Motion to Remand, in which she states that she has no objections to defendant's motion. (Doc. No. 18).

In his motion, defendant requests that the court reverse the decision of the Administrative Law Judge (ALJ) and remand this action pursuant to sentence four of 42 U.S.C. § 405(g). Defendant states that upon receipt of the court's remand order, the Appeals Council of the Social Security Administration will remand this case to an ALJ, who will be directed to provide plaintiff with the opportunity for a new hearing, at which time she may submit additional medical evidence. The ALJ will also be directed to obtain evidence from a vocational expert at the hearing so that plaintiff's representative will have the right to cross-examine the vocational expert regarding whether jobs exist

in significant numbers in the national economy that plaintiff could perform during the period not previously adjudicated and during which plaintiff has been found to have a severe mental impairment that resulted in moderate limitations in social functioning. Defendant requests that the court enter a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure reversing the decision of the ALJ and remanding this case to the Commissioner.

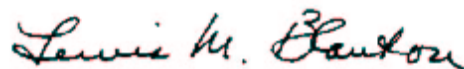
Sentence four of 42 U.S.C. § 405(g) provides that “[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for rehearing.” However, in order for the court to properly remand a case to the Commissioner pursuant to sentence four, the court must enter an order either affirming, modifying or reversing the Commissioner’s decision. See Brown v. Barnhart, 282 F.3d 580, 581 (8th Cir. 2002).

The undersigned finds that it is appropriate to reverse and remand this case in order to permit the Commissioner to take further action as requested in his motion.

Accordingly,

IT IS HEREBY ORDERED that the decision of the Commissioner be **reversed** and this cause be **remanded** to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g) for those reasons set forth in this Memorandum and Order. A separate written judgment will be entered in favor of the plaintiff and against the defendant.

Dated this 18th day of July, 2008.



LEWIS M. BLANTON
UNITED STATES MAGISTRATE JUDGE